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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

Estate of LUCAS DAVE EDDINES, Deceased.	B289914 (Los Angeles County Super. Ct. No. BP124037)
ELISA EDDINES, Petitioner and Respondent, v. GLENN EDDINES, Objector and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Clifford L. Klein, Judge. Affirmed.

Glenn Eddines, in pro. per., for Objector and Appellant.

No appearance by Petitioner and Respondent.

Glenn Eddines (Glenn), the son of decedents Dave Lucas Eddines (Lucas) and Shirley Eddines (Shirley), appeals from the probate court's order reopening Lucas's estate and reappointing Elisa Eddines (Elisa),[1] Lucas's surviving spouse, as the personal representative of the estate. Glenn challenges the probate court's determination pursuant to Probate Code section 12252[2] that it was necessary to reopen Lucas's estate to implement the terms of a 2014 final distribution order requiring sale of property located at 12909 Vaughn Street (Vaughn property) and distribution of the proceeds to Lucas and Shirley or their estates. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND[3]

A. *The Parties*

Shirley and Lucas were married for over 20 years, then divorced on August 31, 1974. They had five children together: Maureen, Laurene, Robert (also called Laval), Glenn, and David. Robert is deceased and survived by two children. Maureen,

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[1] We refer to the family members by their first names to avoid confusion.

[2] Subsequent undesignated statutory references are to the Probate Code.

[3] On our own motion we augment the record to include the following documents filed in the superior court in this case: the probate court's January 8, 2013 order adjudicating Shirley's section 850 petition, the probate court's February 25, 2014 final distribution order for Lucas's estate, Elisa's petition to reopen Lucas's estate filed on November 9, 2017, and Elisa's supplemental petition filed on January 17, 2018. (Cal. Rules of Court, rule 8.155(a)(1)(A).)

Laurene, Glenn, David, and Robert's two children are heirs of both Shirley and Lucas.

Elisa is Lucas's second wife. Elisa and Lucas had two children together: Darreal and Tatianna. Elisa, Darreal, and Tatianna are heirs of Lucas.

B. *Probate of Lucas's Estate in California*

Lucas, a resident of Kingman, Arizona, died intestate on April 26, 2010. On August 10, 2010 Elisa filed a petition for probate of Lucas's assets located in California. The probate court appointed Elisa as the personal representative of Lucas's estate and issued letters of administration.

On November 24, 2010 Shirley filed a petition under section 850 to determine ownership of the Vaughn property, which she and Lucas had purchased as joint tenants in March 1958. Shirley filed an amended petition on May 10, 2011. She sought a determination she was entitled to a 100 percent interest in the Vaughn property, or, in the alternative, Lucas's estate did not have an interest in the property until it was sold.

On January 8, 2013 the probate court[4] ruled that based on the order of dissolution of the marriage of Shirley and Lucas, Lucas's estate owned a one-half undivided interest in the Vaughn property subject to a life estate for Shirley, and Shirley owned the other one-half undivided interest. The probate court ordered the sale of the Vaughn property upon Shirley's death or upon her failure to occupy the property for more than 90 consecutive days. The court ordered the proceeds of the sale to be divided equally between Lucas's estate and Shirley or her estate. On

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[4] Judge Reva Goetz presided over the 2013 and 2014 hearings discussed in this opinion.

February 25, 2014 the probate court issued an order settling the first and final account and providing for final distribution of Lucas's estate. The order adopted the findings in the January 8, 2013 order and ordered the Vaughn property to be sold and distributed consistent with the January 8, 2013 order. However, the order did not specify the procedure for sale of the property or who would oversee the sale.

On March 3, 2016, Elisa was discharged as the personal representative for Lucas's estate.

C. *Shirley's Death and the Reopening of Lucas's Estate*

On September 8, 2017 Shirley died, leaving her estate in a trust. Two months later Elisa filed a petition to reopen Lucas's estate and for reappointment as the personal representative of the estate with authority to sell the Vaughn property subject to court supervision. Elisa argued the final distribution order did not fully distribute the estate property because the order required sale of the Vaughn property, but the property could not be sold until Shirley died.

David and Maureen filed objections to Elisa's petition. They argued Elisa had no standing to administer the interest held by Shirley's trust in the Vaughn property. They also asserted the interest in the Vaughn property held by Lucas's estate had already been administered and was subject to the final distribution order, and therefore there was no reason to reopen Lucas's estate. David and Maureen maintained Shirley's trust could sell the Vaughn property without court supervision and without reopening Lucas's estate. Finally, David and Maureen argued Elisa should not be reappointed because she breached her fiduciary duties when she previously served as the personal representative of Lucas's estate.

On March 26, 2018, after hearing oral argument, the probate court overruled David and Maureen's objections. The probate court noted the final distribution order failed to designate who would be responsible for selling the Vaughn property upon Shirley's death. Therefore, in order to implement the terms of the final distribution order, Lucas's estate needed to be reopened for the limited purpose of selling the Vaughn property and distributing the proceeds.

On April 19, 2018 the probate court issued an order reopening Lucas's estate and reissuing letters of administration to Elisa, who was given exclusive authority to sell the Vaughn property. The probate court directed the proceeds from the sale to be placed into a blocked account to be distributed as set forth in the final distribution order following the court's confirmation of the sale and deduction of court-approved fees and costs from the Lucas estate's portion of the proceeds.

Glenn timely filed a notice of appeal on May 3, 2018.[5]

DISCUSSION

A. *Appealability*

Glenn states in his notice of appeal he is appealing a judgment entered on April 19, 2018 "after an order granting a summary judgment motion." No summary judgment motion has been filed in this case, nor was a "judgment" entered on April 19, 2018. However, notices of appeal "must be liberally construed."

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[5] Glenn filed a petition for writ of supersedeas on February 19, 2020 seeking to stop efforts to sell the Vaughn property. We summarily denied the petition on February 26, 2020.

(Cal. Rules of Court, rule 8.100(a)(2) ["The notice is sufficient if it identifies the particular judgment or order being appealed."].) "[A] notice is sufficient '"to protect the right of appeal if it is reasonably clear what [the] appellant was trying to appeal from, and where the respondent could not possibly have been misled or prejudiced."'" (*Burch v. CertainTeed Corp.* (2019) 34 Cal.App.5th 341, 347-348; accord, *Ellis Law Group, LLP v. Nevada City Sugar Loaf Properties, LLC* (2014) 230 Cal.App.4th 244, 251 [notice of appeal was sufficient although appellant checked incorrect box for its statutory authority].) It is reasonably apparent from Glenn's notice that he seeks to appeal the probate court's order entered on April 19, 2018 reopening Lucas's estate, reappointing Elisa as the personal representative, and authorizing Elisa to sell the Vaughn property. The order is appealable pursuant to section 1300, subdivision (a) (appealable orders include those "[d]irecting, authorizing, approving, or confirming the sale . . . of property") and section 1303, subdivisions (a) and (g) (appealable orders include those "[g]ranting or revoking letters to a personal representative" and "[d]irecting distribution of property").

Glenn's arguments challenging orders other than the April 19, 2018 order, including the probate court's January 8, 2013 order adjudicating Shirley's section 850 petition and the February 25, 2014 final distribution order, are not properly before us in this appeal. (*Colony Hill v. Ghamaty* (2006) 143 Cal.App.4th 1156, 1172 ["'"Despite the rule favoring liberal interpretation of notices of appeal, a notice of appeal will not be considered adequate if it completely omits any reference to the judgment [or order] being appealed."'"].) In addition, any challenge to the 2013 and 2014 orders is untimely. Both orders

were appealable,[6] and neither was properly appealed, causing them to become final.[7] "Even if the decree is erroneous, the decree of distribution is conclusive as to the rights of heirs, devisees and legatees once it becomes final [citation]." (*Estate of St. John* (1971) 19 Cal.App.3d 1008, 1011; see *Estate of Wemyss* (1975) 49 Cal.App.3d 53, 58 ["Where orders are independently appealable and become final by lapse of time, a subsequent attack on them in an appeal from some later order or judgment is collateral" and impermissible.].)

B. *Applicable Law and Standard of Review*

Section 12252 provides for the reappointment of a personal representative "[i]f subsequent administration of an estate is necessary after the personal representative has been discharged because other property is discovered or because it becomes necessary or proper for any other cause . . . ." Where the court determines subsequent administration is necessary, the probate court "shall" appoint a personal representative, giving priority to the person who served as the personal representative at the time of discharge. (*Id*., subd. (a); see *Estate of Den* (1935) 3 Cal.2d

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[6] See *Estate of Redfield* (2011) 193 Cal.App.4th 1526, 1534 ("Orders of the probate court adjudicating the merits of a section 850 claim and authorizing a compromise of a contest are appealable" under section 1300.).

[7] Maureen and Laurene appealed the January 8, 2013 order on March 27, 2014. However, we dismissed their appeal as untimely and for lack of standing. (*Estate of Eddines* (Apr. 23, 2015, B255172) [order].)

638, 640-641 [applying former § 1067[8] in affirming order reopening estate to administer undiscovered property that had not passed by the decree of distribution]; *Estate of Bouche* (1937) 24 Cal.App.2d 86, 90 ["That the court has power to reopen the probate of an estate in proper cases there can be no question."]; cf. *O'Brien v. Nelson* (1913) 164 Cal. 573, 575 [affirming denial of new letters of administration for closed estate where no property remained to be administered, explaining court should only reopen estate and issue further letters of administration where "there still remains property of the estate not fully disposed of, or some act to be done relating thereto which only an administrator can do"]; *Estate of Heigho* (1960) 186 Cal.App.2d 360, 368-369 [affirming order denying petition to reopen estate where there was no property in the estate "'not fully disposed of, or some act to be done relating thereto which only an administrator can do'"].)

The appellate courts have independently reviewed the trial court's determination of whether it is necessary to reopen the estate. (See e.g., *Estate of Den, supra*, 3 Cal.2d at pp. 640-641 [affirming grant of petition to reopen estate because "the facts of the present situation bring it within the purpose and scope" of former § 1067]; *Estate of Heigho, supra*, 186 Cal.App.2d at p. 370 ["The decision of the court below [denying petition to reopen estate] was correct and should be sustained."]; *Estate of Bouche, supra*, 24 Cal.App.2d at p. 91 [probate court erred in reopening estate where final decree of distribution provided for distribution of all property, whether or not described in decree].)

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[8] Section 12252 codifies former section 1067 and conforms the notice provisions to section 1220. (Stat. 1988, ch. 1199, §§ 55.5, 93.)

C. *The Trial Court Did Not Err in Finding Subsequent Administration Was Necessary and Reappointing Elisa as the Personal Representative of Lucas's Estate*

Glenn contends the probate court erred in finding subsequent administration of Lucas's estate was necessary and granting Elisa authority to sell the Vaughn property, arguing Elisa did not have standing to sell the one-half undivided interest held in Shirley's trust.[9] Glenn also argues the probate court, in ordering the proceeds to be placed in a blocked account, ignored the rights of Shirley's trust. Glenn's arguments lack merit.[10]

It is undisputed the final distribution order provided for the sale and distribution of the Vaughn property, but the property could not be sold until Shirley died, and the final distribution order did not provide for who or how the property would be sold. Thus, it became "necessary or proper" to appoint a personal

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[9] Although Glenn did not object to Elisa's petition or appear at the hearing on the petition, David and Maureen in their objection argued Elisa lacked standing to administer Shirley's estate's interest in the Vaughn property and the final distribution order already provided for the distribution of the interest held in Lucas's estate. Because David and Maureen raise the arguments asserted by Glenn on appeal, we decline to find forfeiture. (See *In re S.B.* (2004) 32 Cal.4th 1287, 1293 ["application of the forfeiture rule is not automatic"].)

[10] We also reject Glenn's argument the failure of David and Maureen's attorney to attach Shirley's trust documents and will in opposing Elisa's petition "weaken[ed] the stance and strength to the trust." The record shows the trust documents were attached as exhibit A to David and Maureen's objections, and the probate court accepted that Shirley's estate was held in a trust.

representative to sell the property. (§ 12252; see *Estate of Den, supra*, 3 Cal.2d at pp. 640-641.) Further, section 12252, subdivision (a), required the probate court to reappoint an administrator, with first priority to Elisa as the personal representative of Lucas's estate at the time of discharge. In addition, Elisa, as Lucas's surviving spouse, had first priority to serve as the personal representative of his estate. (§ 8461.)

Glenn's argument that Elisa did not have standing to administer the portion of the Vaughn property held in Shirley's trust is not persuasive. Because the final distribution order required the Vaughn property to be sold, either Lucas's estate or Shirley's estate had to be tasked with selling the property—it is not feasible for each half of the property to be sold separately. Elisa did not purport to have standing to act on behalf of Shirley's estate. Rather, Elisa sought authority to sell the Vaughn property in her capacity as the personal representative of Lucas's estate. Because action was still needed to implement the final distribution order for Lucas's estate, the probate court did not err in determining the reopening of Lucas's estate for the limited purpose of selling the Vaughn property was necessary, and further, Elisa should be the personal representative of the Lucas estate for that purpose.

Glenn cites no authority for his contention the probate court should have granted authority to sell the Vaughn property to a representative of Shirley's estate instead of Lucas's estate. Thus, Glenn has forfeited this argument on appeal. (*People v. Bryant, Smith and Wheeler* (2014) 60 Cal.4th 335, 363 ["If a party's briefs do not provide legal argument and citation to authority on each point raised, '"the court may treat it as waived, and pass it without consideration."'"]; *In re Marriage of Davila & Mejia* (2018) 29 Cal.App.5th 220, 227 ["'Issues not supported by

citation to legal authority are subject to forfeiture.'"].) Further, Glenn has failed to establish prejudice because he does not contend the Vaughn property should not be sold, and regardless of who has authority to sell the property, the proceeds from the sale will properly be placed in a blocked account pending approval by the probate court, then distributed to Glenn and the other heirs as set forth in the final distribution order. (See *Cassim v. Allstate Ins. Co.* (2004) 33 Cal.4th 780, 801 [harmless error standard under *People v. Watson* (1956) 46 Cal.2d 818 applies to civil cases, "precluding reversal unless the error resulted in a miscarriage of justice"]; see also Code Civ. Proc., § 475 ["No judgment . . . shall be reversed or affected by reason of any error . . . unless it shall appear from the record that such error . . . was prejudicial . . . ."].)

DISPOSITION

The order is affirmed. Appellant is to bear his own costs.

FEUER, J.

We concur:

PERLUSS, P. J. DILLON, J.*

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* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.